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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,317	10/10/2000	Daniel L. Nower	53199.US	4835

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LUEDEKA, NEELY & GRAHAM, P.C.  
P O BOX 1871  
KNOXVILLE, TN 37901

EXAMINER

LAU, TUNG S

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application No.	Applicant(s)
	09/685,317	NOWER ET AL. <i>M</i>
	Examiner	Art Unit
	Tung S Lau	2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 16 September 2002.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) 1-10 and 18-22 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 11,13 and 14 is/are rejected.

7) Claim(s) 12 and 15-17 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

***Combination/subcombination***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10 and 18-22 drawn to angular position sensing using accelerometer, classified in class 702, subclass 151.
- II. Claims 11-17 drawn to alignment system to align centerline of the shaft, classified in class 702, subclass 94.

The inventions are distinct, each from the other because of the following reasons:

Inventions of each of groups I-II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions can each be used for their respective uses has separate utility such as using accelerometer for angular position sensing, and using accelerometer for alignment purpose sensing in a machine. See MPEP § 806.05(d).

Due to the reasoning not specify in the original restriction, this restriction is non-final.

Applicant's election with traverse of invention of claims 11-17 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there is no burden on the

examiner. This is not found persuasive because inventions claims in group I, claims 1-10, 18-22 and group II, claims 11-17 are distinct inventions and there is burden on the examiner to search for different invention. Group I drawn to angular position sensing using accelerometer, group II drawn to alignment to align centerline of a shaft.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Claims 1-10 and 18-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the

application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 11, 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by McCall et al. (U.S. Patent 6,473,713).

McCall discloses an alignment system with at least one accelerometer for generating a signal corresponding to the angular orientation of the sensor (col. 13-14, lines 58-31). A microprocessor for processing the angular position information fig. 14 , block 80. A single-axis, dual-axis accelerometer (col. 2, lines 26-46).

***Claim objections***

3. Claims 12 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
  
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

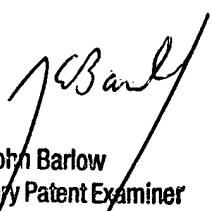
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX

- (703) 872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319

TC2800 Customer Service RightFAX - (703) 872-9317

TL      October 30, 2002

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800